

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-021249

07/19/2005

HONORABLE PETER SWANN

CLERK OF THE COURT
D. Kenney
Deputy

FILED: 07/21/2005

STEVE G NELSON

JOSEPH W CHARLES

v.

LIBERTY MUTUAL INSURANCE GROUP

RALPH E HUNSAKER

JAMES M BALOGH

JURY TRIAL – DAY 2

IN CHAMBERS: Prior to Trial commencing, argument is heard regarding Defendant's Objection to the utilization of the deposition of Noreen Thorsen or presenting her testimony at Trial. Counsel for both parties are present, as well as Ron Andersen, on behalf of the Arizona Industrial Commission.

IT IS ORDERED directing Plaintiff's counsel to research his file and present to the Court whether Defendant was served with the deposition of Noreen Thorsen and whether the witness was in fact disclosed in a timely manner and the Court shall rule upon this issue during recess from Trial.

9:38 a.m. Trial to a Jury. Plaintiff is present with counsel, Joseph Charles. Defendant is represented by counsel, Ralph Hunsaker. The jury is present.

Court Reporter, Rochelle Dobbins, is present.

Plaintiff's case:

Ruth Nelson is sworn and testifies.

Witness is excused.

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Pamela Edwards is sworn and testifies.

Witness is excused.

Susan Plunkett is sworn and testifies.

Witness is excused.

Sheli Nelson is sworn and testifies.

Witness is excused.

David Lee Nelson is sworn and testifies.

Witness is excused.

Steve Nelson, having been previously sworn, resumes the stand and testifies further.

10:45 a.m. Court stands at recess.

11:05 a.m. Court reconvenes with respective parties and counsel present.

Court reporter, Rochelle Dobbins, is present.

Discussion is held with counsel regarding Defendant's Objection regarding the use of the deposition of Noreen Thorsen or her testimony at Trial.

The Court shall continue argument regarding Defendant's Objection upon Defendant reviewing the deposition, delivered in Court during today's proceeding.

11:09 a.m. The jury is now present.

Janice Bowman is sworn and testifies.

Plaintiff's Exhibit 30 is marked for identification

Plaintiff's Exhibits 9 through 12 and 15 are received in evidence.

Witness is excused.

Steve Nelson resumes the stand and testifies further.

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11:59 a.m. Court stands at recess.

1:38 p.m. Court reconvenes with respective parties and counsel present. The jury is present.

Court reporter, Rochelle Dobbins, is present.

Steve Nelson resumes the stand and testifies further.

2:44 p.m. Court stands at recess.

3:03 p.m. Court reconvenes with respective parties and counsel present.

Court reporter, Rochelle Dobbins, is present.

Discussion is held as stated on the record.

Pursuant to argument presented,

IT IS ORDERED granting Defendant's Motion regarding their objection to the testimony of Noreen Thorsen. Ms. Thorsen is released from her duty to appear under subpoena.

3:08 p.m. Jury is now present.

Steve Nelson resumes the stand and testifies further.

Plaintiff rests.

Defendant's Exhibit 31 is marked for identification and received in evidence.

3:21 p.m. The jury is admonished and excused until **9:30 a.m., July 20, 2005**.

Discussion is held in the absence of the jury with counsel regarding Defendant's Motion for Judgment as a Matter of Law.

Pursuant to oral argument presented,

IT IS ORDERED granting the Motion for Judgment as a Matter of Law with regard to punitive damages.

IT IS FURTHER ORDERED granting the Motion for Judgment as a Matter of Law with regard to past and future economic loss as a result of permanent disabilities.

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IT IS FURTHER ORDERED denying the Motion for Judgment as a Matter of Law with regard to liability on the case as a whole.

This case shall proceed to the jury on **July 20, 2005**.

3:55 p.m. Court stands at recess.